

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 7:23-cv-00318-RSB
	)	
A & G COAL CORP., et al.,	)	
	)	
Defendants.	)	
	)	

**UNITED STATES' MOTION FOR SUMMARY JUDGMENT**

The United States sued thirteen companies and James C. Justice, III for unpaid debts resulting from the Defendants' persistent violations of the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"), SMCRA's regulations, and SMCRA mining permits between 2018 and 2022, and for failure to pay abandoned mine land ("AML") reclamation fees for coal mined between 2016 and 2022. On November 22, 2023, the Court entered judgment against Defendants on the claim seeking to recover unpaid AML fees (Count III of the Complaint). ECF No. 31. The United States now moves for summary judgment on the two remaining claims.

As set forth in the accompanying memorandum in support, there is no genuine dispute of material fact that Defendants owe the penalties alleged in Counts I and II of the Complaint. Defendants' Answer and discovery responses, and the United States' undisputed documentary evidence, demonstrate they owe the penalties sought. Defendants nonetheless attempt to avoid payment, asserting three affirmative defenses: insufficient notice and service, the statute of limitations, and the Eighth Amendment's Excessive Fines Clause. Each of these defenses fails

as a matter of law, and summary judgment should be entered in the United States' favor on Counts I and II of the Complaint.

Respectfully submitted this 8th day of December, 2023,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 8, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice, and constitute service, of such filing to all counsel of record.

/s/ Krista Consiglio Frith

Krista Consiglio Frith

Assistant United States Attorney